

APPENDIX D

ENVIRONMENTAL LAWS AND REGULATIONS

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**TABLE D-1. ENVIRONMENTAL LAWS AND REGULATIONS
RELEVANT TO THE PROPOSED ACTION**

Relevant Laws and Regulations	Summary	Affected Resource/ Consideration
The National Environmental Policy Act (NEPA)	Requires Federal agencies to evaluate the environmental impacts of their actions and to integrate such evaluations into their decision-making processes.	All
Council on Environmental Quality (CEQ) Regulations	These regulations (40 CFR 1500-1508) implement NEPA and establish two different levels of environmental analysis: the environmental assessment (EA) and the environmental impact statement (EIS). An EA determines whether significant impacts may result from a proposed action. If significant impacts are identified, an EIS is required to provide the public with a detailed analysis of alternative actions, their impacts, and mitigation measures, if necessary.	All
The Clean Water Act (CWA)	Section 401, the state water quality certification process, gives states the authority to grant, deny, or condition the issuance of Federal permits that may result in a discharge to the waters of the United States based on compliance with water quality standards. Section 404 regulates the discharge of pollutants, including dredged or fill material, into navigable waters of the U. S. through a permit system jointly administered by the U. S. Environmental Protection Agency (EPA) and the U. S. Army Corps of Engineers (USACE). Nonpoint sources requirements control pesticide runoff, forestry operations, and parking lots/motor pools. Point sources require individual or group permits and must be monitored at the point at which they enter public waters, storm sewers, or natural waterways.	Water Resources, Biological Resources

	Section 311 (j) requires facilities to prepare a Spill Prevention Control and Countermeasure Plan, containing minimum prevention facilities, restraints against drainage, an oil spill contingency plan, etc.	
The Clean Air Act (CAA)	Among its varied provisions, the CAA establishes standards for air quality in regard to the pollutants generated by internal combustion engines. These standards, known as the National Ambient Air Quality Standards (NAAQS), define the concentrations of these pollutants that are allowable in air to which the general public is exposed (“ambient air”).	Air Quality
The Endangered Species Act	Prohibits the harming of any species listed by the U. S. Fish and Wildlife Service (USFWS) as being either Threatened or Endangered. Harming such species includes not only directly injuring or killing them, but also disrupting the habitat on which they depend.	Biological Resources
Migratory Bird Treaty Act	Restricts the taking, possession, transportation, sale, purchase, importation, and exportation of migratory birds through permits issued by the USFWS.	Biological Resources
Wild and Scenic Rivers Act (WSRA)	Protects those rivers or river segments included in the National Wild and Scenic Rivers System or listed on the Nationwide Rivers Inventory (NRI) by the National Park Service (NPS) and their immediate environments through management plans. Management plans are individually developed by the NPS in consultation with State and local agencies for each listed river component and determine the kinds and amounts of public use the river area can sustain without impacting the values for which it was designated.	Water Resources
Kentucky Wild Rivers Act	Protects rivers or river segments designated into the Wild Rivers System by the Kentucky General Assembly from unwise use and development. Land and resource use within a designated river area are governed by a management plan specific to that river area. The management plan describes the characteristics and needs of the site and proposes strategies for protection and recreational development. Plans are developed cooperatively	Water Resources

	by the Kentucky Division of Water (KDOW), State and Federal agencies, and the public. The KDOW, within the Natural Resources and Environmental Protection Cabinet (NREPC), is responsible for administration of the Wild Rivers Program.	
Kentucky Nature Preserves Act	Protects and preserves rare species and the natural environment against modification resulting from development or other use which would destroy natural conditions. Areas are designated into the Nature Preserves System by the Kentucky State Nature Preserves Commission (KSNPC), which owns and/or manages the preserves. The Nature Preserves Program is administered by the NREPC and the KSNPC.	All
The Noise Control Act of 1972, as amended by the Quiet Communities Act of 1978	Requires compliance with State and local noise laws and ordinances.	Noise, Human Health and Safety
Executive Order 11514: Protection and Enhancement of Environmental Quality	Provides leadership for protecting and enhancing the quality of the Nation's environment to sustain and enrich human life.	All
Archaeological Resources Protection Act (ARPA)	Ensures the protection and preservation of archeological resources on Federal lands.	Cultural Resources
Native American Graves Protection and Repatriation Act (NAGPRA)	Protects Native American human remains, burials, and associated burial goods.	Cultural Resources
National Historic Preservation Act (NHPA)	Provides the framework for Federal review and protection of cultural resources, and ensures that they are considered during Federal project planning and execution. The implementing regulations for the Section 106 process (36 CFR Part 800) have been developed by the Advisory Council on Historic Preservation (ACHP). The Secretary of the Interior maintains a	Cultural Resources

	National Register of Historic Places (NRHP) and sets forth significance criteria for inclusion in the register. Cultural resources included in the NRHP, or determined eligible for inclusion, are considered “historic properties” for the purposes of consideration by Federal undertakings.	
Resource Conservation and Recovery Act (RCRA)	Regulates all aspects of the handling of hazardous waste through RCRA permits issued by the U.S. EPA.	Hazardous Materials
Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA)	Provided broad Federal authority to respond directly to releases of hazardous materials that may endanger public health or the environment. Established prohibitions and requirements pertaining to closed and abandoned hazardous waste sites, provided for liability of persons responsible for releases of hazardous waste at these sites, and established a trust fund to provide for cleanup when a responsible party cannot be identified.	Hazardous Materials
Executive Order 11593: Protection and Enhancement of the Cultural Environment	Provides leadership for protecting, enhancing, and maintaining the quality of the Nation’s historic and cultural environment.	Cultural Resources
Executive Order 12372: Intergovernmental Review of Federal Programs	Directs Federal agencies to consult with and solicit comments from state and local government officials whose jurisdictions would be affected by Federal actions.	All
Executive Order 12898: Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations	Requires Federal actions to achieve Environmental Justice by identifying and addressing disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority and low-income populations.	All
Executive Order 13045: Protection of Children from Environmental Health Risks and	Requires Federal actions and policies to identify and address disproportionately adverse risks to the health and safety of children.	All

Safety Risks		
Executive Order 11990: Protection of Wetlands	An overall wetlands policy for all agencies managing Federal lands, sponsoring Federal projects, or providing Federal funds to State or local projects. It requires Federal agencies to follow avoidance/mitigation/preservation procedures with public input before proposing new construction projects.	Biological Resources
Executive Order 11988: Floodplain Management	Requires all Federal agencies to take action to reduce the risk of flood loss, to restore and preserve the natural and beneficial values served by floodplains, and to minimize the impact of floods on human safety, health, and welfare. Because many wetlands are located in floodplains, Executive Order 11988 has the secondary effect of protecting wetlands.	Water Resources, Biological Resources
Farmland Protection Policy Act	Requires Federal agencies to use criteria to identify and take into account the adverse effects of their programs on the preservation of farmland, to consider alternative actions that could decrease adverse effects, and to ensure that their programs are compatible with State and local government and private programs and policies to protect farmland.	Land Use, Geology/Soils
United States Department of Agriculture (USDA) Departmental Regulation (DR) 9500-4: Fish and Wildlife Policy	States the policies of the USDA with regard to the management of fish and wildlife and their habitats and to advise specific actions to implement the policies. These policies have the purpose of assuring that the values of fish and wildlife are recognized and enhanced as the USDA carries out its missions.	Biological Resources
USDA DR 9500-3: Land Use Policy	Sets forth procedures for complying with the provisions of the Farmland Protection Policy Act while Federal agencies implement programs and make decisions that will affect current and potential uses of land.	Land Use
Wilderness Act of 1964	Established the National Wilderness Preservation System, which includes Federally-owned areas designated by Congress as "wilderness areas." These areas are required to be left unimpaired for future use and enjoyment,	Biological Resources, Land Use

	and to be protected and preserved as wilderness.	
Safe Drinking Water Act (SDWA)	Provides for the safety of drinking water throughout the U.S. by establishing and enforcing national drinking water quality standards. Protects public health by establishing safe limits (maximum containment limits) for contaminants based upon the quality of water at the tap, and prevents contamination of surface and ground sources of drinking water. The U.S. EPA is responsible for establishing the national standards; the States are responsible for enforcement of the standards.	Water Resources/ Quality; Human Health & Safety
Kentucky Agriculture Water Quality Act	Kentucky Revised Statute (KRS) 224.71-100 through 224.71-140 focus on the protection of surface and ground water resources from agriculture and silviculture activities. Statewide and regional agriculture water quality plans are established by the Kentucky Agriculture Water Quality Authority. The act is implemented by the NREPC's Division of Conservation.	Water Resources, Land Use
401 Kentucky Administrative Regulation (KAR) 63:005	Open Burning relates to KRS 224.10-100, which requires NRECP to prescribe administrative regulations for the prevention, abatement, and control of air pollution. This administrative regulation provides for the control of open burning.	Air
Kentucky Environmental Release Reporting and Cleanup Law	KRS 224.01-400 and 224.01-405 provide reporting and cleanup requirements for a release or threatened release of a hazardous substance, pollutant, or contaminant, petroleum, or petroleum product.	Hazardous Materials
National Emissions Standards for Hazardous Air Pollutants (NESHAP)	Places standards on all hazardous air pollutants and governs such areas as organic liquids, asbestos, polyurethane foam, and wastewater. NESHAP is implemented under EPA jurisdiction.	Air Quality, Waste Management
401 KAR 4:030 & 4:040	Design Criteria for Dams and Associated Structures and Nonhazardous Sediment Structures Exempted relate to KRS 151.250, which requires a permit to be issued by the NREPC before any person or body begins construction, reconstruction, relocation, or improvement of any dam, levee,	Water Resources

	<p>dike, or other obstruction across or along a stream or floodway of a stream. This statutes gives the Kentucky Bureau of Surface Mining complete jurisdiction over these activities when the stream or floodway is permitted for surface coal mining.</p>	
401 KAR 5:037	<p>Groundwater Protection Plans relates to KRS 151.110 and .232, KRS Chapter 224, and SB 241, which require the NREPC to adopt regulations to protect waters and to prevent pollution of waters of the Commonwealth.</p>	Water Resources
401 KAR 4:020, 4:050, & 4:060	<p>Floodplain Construction Permit and Dam Construction Permit relate to KRS 151.250 through 151.280 and 151.310, which require a permit to be issued by the NREPC prior to the construction, reconstruction, relocation, or improvement of any dam, embankment, levee, dike, bridge, or other obstruction across or along any stream or in the floodway of any stream.</p>	Water Resources
401 KAR 4:010 & 4:200	<p>Water Withdrawal Permit relates to KRS 151.120 through 151.170 and 151.200 through 151.210, which require a permit to be issued by the NREPC to withdraw, divert, or transfer public water from a stream, lake, groundwater source, or other water body.</p>	Water Resources
401 KAR 8:100	<p>Approval to Construct Public Water Supply Facilities relates to KRS 224.10-110, which requires approval from the NREPC prior to the construction or installation of any new facilities, or the alteration or reconstruction of any existing facilities in any public or semi-public water supply.</p>	Water Resources
401 KAR 4:030, Section 8(2)	<p>Approval to Impound relates to KRS 151.210 and 151.250, which require approval from the NREPC to impound water behind a dam.</p>	Water Resources
401 KAR 57:011	<p>Relates to KRS 224.10-100, which requires that structures to be demolished or renovated must be surveyed for asbestos, and prior notification must be submitted to the NREPC for asbestos demolitions.</p>	Air Quality

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